

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
5:96-CR-00010-KDB-DSC-19

USA

v.

ARNOLD ADAMS

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ORDER

THIS MATTER is before the Court upon motion of the Defendant *pro se* for compassionate release and a request for appointment of counsel based on the COVID-19 pandemic under 18 U.S.C. § 3582(c)(1)(A) and the First Step Act of 2018. (Doc. No. 597). His conclusory and unsupported motion will be denied without prejudice to a renewed motion properly supported by evidence and after exhaustion of his administrative remedies.

Section 603(b) of the First Step Act amended § 3582(c)(1)(A), which previously only allowed a court to reduce a term of imprisonment on motion of the Director of Prisons (BOP). Now a court may entertain a motion filed by a defendant: (1) after full exhaustion of all administrative rights to appeal a failure of the BOP to bring a motion on his behalf; or (2) after lapse of 30 days from the receipt of such a request by the warden of his facility, whichever is less.

Here, Defendant was denied compassionate release by the warden on July 31, 2020. (Doc. No. 597 at 2). However, the motion fails to show that the Defendant has fully exhausted his administrative rights to appeal a failure of the BOP to bring a motion on his behalf before seeking relief from this Court. Likewise, the

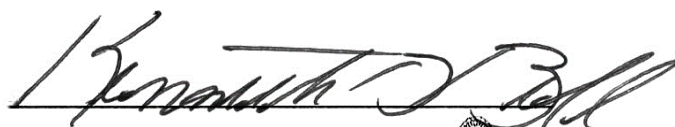
Defendant claims to have high blood pressure but fails to provide medical records to substantiate it and any other underlying health conditions. Therefore, this Court will not consider the merits of his claim. *United States v. Raia*, 954 F.3d 594, 595 (3d Cir. 2020) (denying motion for compassionate release based on COVID-19 where defendant did not seek relief from BOP).

The Defendant asks the Court to appoint him counsel to assist him with his request for a compassionate release. However, “a criminal defendant has no right to counsel beyond his first appeal.” *United States v. Legree*, 205 F.3d 724, 730 (4th Cir. 2000) (quoting *Coleman v. Thompson*, 501 U.S. 722, 756 (1991)). “Though in some exceptional cases due process does mandate the appointment of counsel for certain postconviction proceedings,” the defendant has not presented a showing of such exceptional circumstances in this case. *Legree*, 205 F.3d at 730 (internal citation omitted). The Court finds that the interests of justice do not require appointment of counsel to assist the Defendant at this time.

IT IS, THEREFORE, ORDERED, that the Defendant’s *pro se* motion for compassionate release and appointment of counsel (Doc. No. 597), is **DENIED** without prejudice to a renewed motion properly supported by evidence and after exhaustion of his administrative remedies.

SO ORDERED.

Signed: October 7, 2020



Kenneth D. Bell

United States District Judge

